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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/857,675	06/07/2001	Ralf Fischer	1594	9966
7590 Striker Striker & Stenby 103 East Neck Road Huntington, NY 11743		01/03/2008	EXAMINER TORRES, MARCOS L	
			ART UNIT 2617	PAPER NUMBER PAPER
			MAIL DATE 01/03/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/857,675	FISCHER ET AL.
	Examiner	Art Unit
	Marcos L. Torres	2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 10 October 2007.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 37-49 and 51-74 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 37-49, 51-70 and 72-74 is/are allowed.  
 6) Claim(s) 71 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1)  Notice of References Cited (PTO-892)  
 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3)  Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date 10-10-07

4)  Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5)  Notice of Informal Patent Application  
 6)  Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement (IDS) filed on 10-10-07 was considered during time given to the examiner. If the applicant believes that a particular document is relevant to the prosecution of the case, the applicant is invited to mention the particular document to the examiner with the particular citations.

### ***Response to Arguments***

2. Applicant's arguments see pages 16-20, filed 10-10-07, with respect to claim 37 have been fully considered and are persuasive. The rejection of claim 37 has been withdrawn.

3. Since there are no arguments or amendment in record for claim 71, the previous rejection in record stands.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claim 71 is rejected under 35 U.S.C. 103(a) as being unpatentable over Alanara US005604921A in view of Vanttila (U.S. Patent US005794142A) and further in view of Helferich US007187937B2.

As to claim 71, Alanara discloses a method for transmitting short messages in a radio telecommunications network, comprising the steps of sending a notification message from a central station to a subscriber of said telecommunications network as a function of a short message transmitted to the telecommunications network for the subscriber (see col. 1, lines 6-17); transmitting to the subscriber with the notification

message, data that includes items of information about a content of the short message; and transmitting to the subscriber as the notification message, a first data field of the short message, which includes the data having the items of information about the content of the short message wherein the notification message is not the short message (see col. 2, lines 1-8). Alanara does not specifically disclose sending a short message to a central station of a telecommunications network, for the method transmitting to the subscriber the notification message only after a request signal has been output by the subscriber to the telecommunications network. In an analogous art, Vanttila discloses sending a short message to a central station of a telecommunications network (see col. 6, line 13-40); a method further comprising transmitting to the subscriber the notification message only after a request signal has been output by the subscriber to the telecommunications network (see col. 6, lines 5-35). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to add this teaching to the Alanara message for the simple purpose of managing bandwidth.

Alanara and Vantilla do not specifically disclose that the notification message is not transmitted together. In an analogous art, Helferich discloses sending the notification separate from the message (see col. 3, line 24-37). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to combine these teachings in the modified Alanara and Vantilla system for reducing communication traffic (see col. 3, lines 21-22) and give more options and flexibility on how user read their messages.

***Allowable Subject Matter***

8. Claims 37-49, 51-74 are allowed.
9. The following is an examiner's statement of reasons for allowance: examiner agrees with applicant's arguments.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcos L. Torres whose telephone number is 571-272-7926. The examiner can normally be reached on 8:00am-6:00 PM alt. Wednesday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on 571-252-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Marcos L Torres  
Examiner  
Art Unit 2617

/mlt/

*George Eng*  
GEORGE ENG  
SUPERVISORY PATENT EXAMINER